

**MINUTES OF THE  
NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE**  
Wednesday, November 17, 2010 – 8:00 a.m. – Room 210 Senate Building

**Members Present:**

Sen. Dennis E. Stowell, Senate Chair  
Rep. Roger E. Barrus, House Chair  
Sen. Allen M. Christensen  
Sen. Margaret Dayton  
Sen. Karen W. Morgan  
Rep. Melvin R. Brown  
Rep. Rebecca Chavez-Houck  
Rep. Jack R. Draxler  
Rep. Ben C. Ferry  
Rep. Kerry Gibson  
Rep. James R. Gowans  
Rep. Neal B. Hendrickson  
Rep. Fred R. Hunsaker

Rep. John G. Mathis  
Rep. Michael E. Noel  
Rep. Patrick L. Painter  
Rep. Phil Riesen  
Rep. Ryan D. Wilcox

**Members Absent:**

Rep. Brad L. Dee  
Rep. Bill Wright

**Staff Present:**

Mr. J. Brian Allred, Policy Analyst  
Mr. Christopher R. Parker, Associate General Counsel  
Ms. Joy L. Miller, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Barrus called the meeting to order at 8:10 a.m.

**MOTION:** Sen. Christensen moved to approve the minutes of the October 20, 2010 meeting. The motion passed unanimously. Rep. Wilcox was absent for the vote.

**2. Remediation Waste Fees Report**

Mr. Brad Johnson, Deputy Director, Department of Environmental Quality, explained what actions have been taken to stabilize the Environmental Quality Restricted Account. He noted that H.B. 331, which was passed during the 2010 General Session, included a restructuring of fees and a category of fees was created for remediation waste. Mr. Johnson recommended that he be allowed to report to the Committee toward the end of the fiscal year with more data and better analysis of the effect of the bill and to provide more definitive recommendations at that time.

**3. Snake Valley Update**

Mr. Simeon Herzkovits, Great Basin Water Network, updated the Committee on developments of the proposed Las Vegas pipeline that could affect the Snake Valley. He explained that all of the Southern Nevada Water Authority permits for the project have been voided and need to be completely reevaluated and reheard. As a result, the timeline for the pipeline will be setback and it is uncertain whether it will proceed. Mr. Herzkovits stated that new notice of the plans will be in 2011 and there will likely be a new hearing on the applications late next year or into 2012.

**4. Draft Legislation, "Water Law Modifications"**

Mr. Parker explained that 2011 General Session draft legislation, "Water Law Modifications" (FL-0432/002) makes the filing of a certificate of appropriation of water with the county recorder permissive rather than mandatory. He said many of these certificates are not being filed and recorded. Therefore, there is no complete record in the county recorder's office.

Mr. Boyd Clayton, Division of Water Rights (Division), explained that there is no consistency with how certificates are indexed in the county recorder's office. He noted that was the driving force for the legislation.

Mr. Warren Peterson, attorney, pointed out that there is no consequence in statute if a certificate is not recorded. The legislation would resolve the legal question of what happens if a certificate is not recorded.

**MOTION:** Rep. Ferry moved to pass 2011 General Session draft legislation, "Water Law Modifications" (FL-0432/002), as a committee bill. The motion passed unanimously. Rep. Wilcox was absent for the vote.

## **5. Draft Legislation, "Share Certificates in Water Companies"**

Sen. Ralph Okerlund discussed 2011 General Session draft legislation "Share Certificates in Water Companies" (FL-0427/005), which would allow water companies the opportunity to keep track of and change water certificates in order to provide a better ownership record.

Mr. Mike Styler, Director, Department of Natural Resources, indicated that many water companies issue shares of stock that are sometimes many years old. As those certificates are passed down over generations, many of them become lost or misplaced. The legislation provides for companies to adopt a procedure to replace those certificates.

**MOTION:** Rep. Gibson moved to pass 2011 General Session draft legislation, "Share Certificates in Water Companies" (FL-0427/005), as a committee bill. The motion passed with Rep. Noel and Rep. Painter voting in opposition.

## **6. Draft Legislation, "Surety Requirements for Mining"**

Sen. Stowell explained that 2011 General Session draft legislation, "Surety Requirements for Mining" (FL-0136/003) addresses what bonding should be put in place for operations such as hard rock mining and the process to be followed.

Mr. Steve Schneider, Division of Oil, Gas, and Mining (DOGM), indicated that DOGM does not oppose the bill. DOGM has been approving the amount and form of surety for mineral operators. The bill requires the Board of Oil, Gas, and Mining to annually adopt a figure representing the average cost of reclamation per acre, which is currently the practice.

Mr. Todd Bingham, Utah Mining Association, expressed support for the bill.

**MOTION:** Rep. Draxler moved to pass 2011 General Session draft legislation, "Surety Requirements for Mining" (FL-0136/003), as a committee bill. The motion passed unanimously. Rep. Wilcox was absent for the vote.

## **7. Draft Legislation, "Local District Amendments"**

Sen. Stowell discussed 2011 General Session draft legislation, "Local District Amendments" (FL-0013/018) and noted that it authorizes the owners of groundwater rights to petition for the creation of a local district to acquire or assess groundwater rights.

**MOTION:** Rep. Gibson moved to pass 2011 General Session draft legislation, "Local District Amendments" (FL-0013/018), as a committee bill. The motion passed unanimously.

## **8. Draft Legislation, "Management of Water Rights"**

Sen. Stowell explained that 2011 General Session draft legislation, "Management of Water Rights Amendments" (FL-0369/008) addresses some requirements for the state engineer to consider when preparing a groundwater management plan. The bill also provides that artificially recharging a groundwater basin is a

beneficial use of water in a critical management area. He distributed a proposed amendment to the Committee which clarifies certain language.

**MOTION:** Rep. Ferry moved to adopt the following amendment:

On page 10, After line 283, delete Lines 284-288 and replace it with the following:

(b) In a critical management area, the artificial recharge of a groundwater basin that uses surface water naturally tributary to the groundwater basin by a local district created under Subsection 17B-1-202(1)(a)(xiv), in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act, constitutes a beneficial use of the water under Section 73-1-3 if:

(i) the recharge is done during the time the area is designated as a critical management area;

(ii) the recharge is done with a valid recharge permit;

(iii) the recharged water is not recovered under a recovery permit; and

(iv) the recharged water is used to replenish the groundwater basin.

The motion passed unanimously. Sen. Morgan and Rep. Noel were absent for the vote.

Mr. Clayton explained that the Division has initiated discussions with water users in the Enterprise/Beryl area but the problem is not yet resolved.

**MOTION:** Sen. Dayton moved to pass 2011 General Session draft legislation, "Management of Water Rights Amendments" (FL-0369/008), as amended, as a committee bill. The motion passed unanimously. Sen. Morgan and Rep. Gibson were absent for the vote.

## **9. Draft Legislation, "Water Rights Amendments"**

Rep. Draxler explained that 2011 General Session draft legislation, "Water Rights Amendments" (FL-0431/003) eliminates a provision referring to forfeiture of a water right application and also changes a reference concerning exceptions to application-based priority dates for water rights.

**MOTION:** Rep. Draxler moved to pass 2011 General Session draft legislation, "Water Rights Amendments" (FL-0431/003), as a committee bill and recommend it to the rules committee. The motion passed unanimously. Sen. Morgan and Rep. Gibson were absent for the vote.

## **10. Draft Legislation, "Mineral and Petroleum Literacy"**

Rep. Draxler explained that 2011 General Session draft legislation, "Mineral and Petroleum Literacy" (FL-298/003) would allow the use of funds from the Oil and Gas Conservation Account to be used for education programs concerning mineral and petroleum resources and industries. He noted that the bill still needs to go through the appropriation process.

Mr. Schneider stated that DOGM is concerned with mineral and petroleum literacy and urged the Committee to support the bill. He showed a brief presentation on drilling operations.

Rep. Barrus asked that a copy of the full presentation be sent to each committee member.

Mr. Terry Marasco, Coordinator, Utah Clean Air Alliance, stressed the importance of balance in the education process. School children should be taught that there are some downsides to the industry, such as health risks due to air pollution.

Mr. Bingham indicated that the public needs to understand the industries better and the benefits it derives

from them.

**MOTION:** Sen. Dayton moved to pass 2011 General Session draft legislation, "Mineral and Petroleum Literacy" (FL-298/003), as a committee bill. The motion passed unanimously. Sen. Christensen and Sen. Morgan were absent for the vote.

**MOTION:** Rep. Gibson moved that the Committee reconsider its action on 2011 General Session draft legislation, "Share Certificates in Water Companies" (FL-0427/005). The motion passed unanimously. Sen. Christensen and Sen. Morgan were absent for the vote.

**MOTION:** Rep. Painter moved to amend 2011 General Session draft legislation, "Share Certificates in Water Companies" (FL-0427/005) as follows: On page 8, line 224 after "geographic area" delete "as determined by the water company".

Mr. Peterson explained that the reason for striking the language is to simplify the process for the water company.

Mr. Fred Finlinson, Utah Water Coalition, explained the bill is trying to make sure that appropriate notice is provided to the right place and those using the water in the area receive the right kind of notice.

Mr. Styler said that the state engineer has looked at the language and does not think it harms the bill. He expressed support for the amendment.

The Committee voted on the motion which passed with Rep. Draxler, Rep. Ferry, and Rep. Mathis voting in opposition.

**MOTION:** Rep. Painter moved to pass 2011 General Session draft legislation, "Share Certificates in Water Companies" (FL-0427/005) as a committee bill, as amended. The motion passed with Rep. Ferry and Rep. Mathis voting in opposition.

## **11. Other Business / Adjourn**

Mr. Kevin Carter, School and Institutional Trust Lands Administration (SITLA), explained that SITLA is planning to relinquish to the Navajo Tribe the remaining section of land in the Aneth extension. He noted that SITLA is required by law to report to the Committee when transferring lands less than 10,000 acres to the federal government. He asked how SITLA could satisfy statutory reporting requirements since the Committee will not meet again until next year.

Mr. Parker indicated that a written report to the Committee and staff would satisfy the reporting requirement.

Chair Barrus thanked the committee members, staff, and state agencies for their service. He acknowledged those members of the Committee and staff that would not be returning next year.

**MOTION:** Rep. Wilcox moved to adjourn. The motion passed unanimously.

Chair Barrus adjourned the meeting at 10:20 a.m.